

1 HOUSE JOINT RESOLUTION 5

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 Joseph Cervantes

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10 A JOINT RESOLUTION

11 PROPOSING AN AMENDMENT TO ARTICLE 6, SECTION 35 OF THE  
12 CONSTITUTION OF NEW MEXICO TO ALLOW A PRIMARY ELECTION AND A  
13 GENERAL ELECTION TO BE HELD FOR CERTAIN JUDICIAL OFFICES FILLED  
14 BY APPOINTMENT BY REQUIRING AN APPOINTED JUDGE TO SERVE AT  
15 LEAST ONE FULL YEAR ON THE BENCH BEFORE AN ELECTION IS HELD TO  
16 FILL THAT OFFICE.

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18 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 Section 1. It is proposed to amend Article 6, Section 35  
20 of the constitution of New Mexico to read:

21 "There is created the "appellate judges nominating  
22 commission", consisting of: the chief justice of the supreme  
23 court or the chief justice's designee from the supreme court;  
24 two judges of the court of appeals appointed by the chief judge  
25 of the court of appeals; the governor, the speaker of the house

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1 of representatives and the president pro tempore of the senate,  
2 who shall each appoint two persons, one of whom shall be an  
3 attorney licensed to practice law in this state and the other  
4 who shall be a citizen who is not licensed to practice law in  
5 any state; the dean of the university of New Mexico school of  
6 law, who shall serve as chairman of the commission and shall  
7 vote only in the event of a tie vote; four members of the state  
8 bar of New Mexico, representing civil and criminal prosecution  
9 and defense, appointed by the president of the state bar and  
10 the judges on this committee. The appointments shall be made  
11 in such manner that each of the two largest major political  
12 parties, as defined by the Election Code, shall be equally  
13 represented on the commission. If necessary, the president of  
14 the state bar and the judges on this committee shall make the  
15 minimum number of additional appointments of members of the  
16 state bar as is necessary to make each of the two largest major  
17 political parties be equally represented on the commission.  
18 These additional members of the state bar shall be appointed  
19 such that the diverse interests of the state bar are  
20 represented. The dean of the university of New Mexico school  
21 of law shall be the final arbiter of whether such diverse  
22 interests are represented. Members of the commission shall be  
23 appointed for terms as may be provided by law. If a position  
24 on the commission becomes vacant for any reason, the successor  
25 shall be selected by the original appointing authority in the

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1 same manner as the original appointment was made and shall  
2 serve for the remainder of the term vacated.

3 The commission shall actively solicit, accept and evaluate  
4 applications from qualified lawyers for the position of justice  
5 of the supreme court or judge of the court of appeals and may  
6 require an applicant to submit any information it deems  
7 relevant to the consideration of his application.

8 Upon the occurrence of an actual vacancy in the office of  
9 justice of the supreme court or judge of the court of appeals,  
10 the commission shall meet within thirty days and within that  
11 period submit to the governor the names of persons qualified  
12 for the judicial office and recommended for appointment to that  
13 office by a majority of the commission.

14 Immediately after receiving the commission nominations,  
15 the governor may make one request of the commission for  
16 submission of additional names, and the commission shall  
17 promptly submit such additional names if a majority of the  
18 commission finds that additional persons would be qualified and  
19 recommends those persons for appointment to the judicial  
20 office. The governor shall fill a vacancy or appoint a  
21 successor to fill an impending vacancy in the office of justice  
22 of the supreme court or judge of the court of appeals within  
23 thirty days after receiving final nominations from the  
24 commission by appointing one of the persons nominated by the  
25 commission for appointment to that office. If the governor

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1 fails to make the appointment within that period or from those  
2 nominations, the appointment shall be made from those  
3 nominations by the chief justice or the acting chief justice of  
4 the supreme court. Any person appointed shall serve until the  
5 next general election following one full year of service in the  
6 judicial office. That person's successor shall be chosen at  
7 such election and shall hold the office until the expiration of  
8 the [~~original~~] term in effect on January 1 following the  
9 election."

10 Section 2. The amendment proposed by this resolution  
11 shall be submitted to the people for their approval or  
12 rejection at the next general election or at any special  
13 election prior to that date that may be called for that  
14 purpose.

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